

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ROBERT L. DAVIS,  
Plaintiff,  
v.  
DAVID HOLBROOK, *et al.*,  
Defendants.

Case No. 2:24-cv-03213-FLA (PDx)

**ORDER DISMISSING ACTION**

1 On February 21, 2024, Robert L. Davis (“Plaintiff”) filed a Complaint  
2 pursuant to 42 U.S.C. § 1983 against the California Department of Corrections and  
3 Rehabilitations (“CDCR”) and David Holbrook, Chuckawalla Valley State Prison  
4 Warden (“Warden Holbrook”), in the United States District Court for the Northern  
5 District of California. Dkt. 1 (“Compl.”). On April 15, 2024, the case was  
6 transferred to this district because the events alleged in the Complaint occurred  
7 here. Dkt. 9. On May 28, 2024, Plaintiff’s request to proceed without prepayment  
8 of fees was granted. Dkt. 12.

9 Plaintiff alleges that the CDCR and Warden Holbrook violated his due  
10 process and equal protection rights under the Fourteenth Amendment by denying  
11 his request for family visitation privileges. Compl. at 3, 5.<sup>1</sup> Plaintiff also asserts  
12 state law claims for negligence and intentional infliction of emotional distress  
13 against Defendants. *Id.* at 6. Plaintiff seeks compensatory and punitive damages.  
14 *Id.*

15 On June 26, 2024, the court issued a screening order dismissing the  
16 Complaint with leave to amend. Dkt. 17. The court dismissed the claims against  
17 the CDCR because it is entitled to immunity under the Eleventh Amendment for  
18 claims brought under 42 U.S.C. § 1983 in federal court. *See Brown v. California*  
19 *Dep’t of Corr.*, 554 F.3d 747, 752 (9th Cir. 2009) (holding that the CDCR is  
20 entitled to Eleventh Amendment immunity). Dkt. 17 at 5–6. The court also  
21 dismissed the claims against Warden Holbrook in his official capacity based on  
22 Eleventh Amendment immunity, along with the claims for denial of family visits,  
23 violations of due process and equal protection under the Fourteenth Amendment,  
24 and the state law tort claims. *Id.* at 6–10. Although the court found it unlikely that  
25 Plaintiff could cure the deficiencies in his Complaint, he was given an opportunity  
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27 <sup>1</sup> The court uses the CM/ECF page numbers.  
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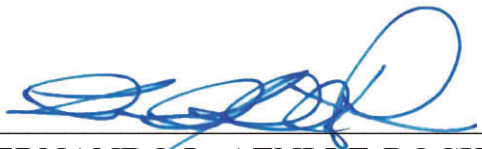
1 to file an amended complaint or file a notice of voluntary dismissal by July 24,  
2 2024. *Id.* at 10–11.

3 On July 16, 2024, Plaintiff filed a Notice of Dismissal pursuant to Fed. R.  
4 Civ. P. 41(a) as to Warden Holbrook. Dkt. 20. Plaintiff did not include the CDCR  
5 in the dismissal notice, and he did not file an amended complaint. As discussed in  
6 the screening order, the CDCR is immune from suit with respect to claims brought  
7 under 42 U.S.C. § 1983. *See* Dkt. No. 17 at 5–6. Eleventh Amendment immunity  
8 also applies to state law claims brought in federal court. *Pennhurst v. State Sch. &*  
9 *Hosp. v. Halderman*, 465 U.S. 89, 100 (1984); *C.N. v. Wolf*, 410 F. Supp. 2d 894,  
10 900 (C.D. Cal. 2005) (holding Eleventh Amendment immunity barred claims  
11 against CDCR under various California civil rights statutes). While California has  
12 consented to be sued in its own courts under the California Tort Claims Act, such  
13 consent does not constitute consent to suit in federal court. *See Dittman v.*  
14 *California*, 191 F.3d 1020, 1025–26 (9th Cir. 1999); *BV Eng’g v. Univ. of Cal.,*  
15 *L.A.*, 858 F.2d 1394, 1396 (9th Cir. 1988).

16 Accordingly, for the foregoing reasons, Defendant CDCR and this action are  
17 DISMISSED without prejudice.

18  
19 IT IS SO ORDERED.

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21 Dated: September 6, 2024

22   
23 FERNANDO L. AENLLE-ROCHA  
24 United States District Judge  
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